

**COMPLAINT INVESTIGATION SUMMARY**

<b>COMPLAINT NUMBER:</b>	<b>1596.00</b>
<b>COMPLAINT INVESTIGATOR:</b>	<b>Brian Simkins</b>
<b>DATE OF COMPLAINT:</b>	<b>July 7, 2000</b>
<b>DATE OF REPORT:</b>	<b>August 15, 2000</b>
<b>REQUEST FOR RECONSIDERATION:</b>	<b>yes (no changes resulted from reconsideration)</b>
<b>DATE OF CLOSURE:</b>	<b>October 13, 2000</b>

**COMPLAINT ISSUES:**

Whether the Griffith Public Schools and the Northwest Indiana Special Education Cooperative violated:

- 511 IAC 7-12-1(b) and (c) with regard to the school's alleged failure to:
  - i. provide the parent with adequate notice of the case conference committee (CCC) meeting early enough to give one or both parents the opportunity to attend; and
  - ii. schedule the CCC meeting at a mutually agreed upon date and time.
- 511 IAC 7-10-3 with regard to the school's alleged failure to conduct an evaluation and convene the CCC meeting within 40 instructional days of the date of written parental consent.
- 511 IAC 7-12-1(e) with regard to the school's alleged failure to include in the CCC meeting a representative with the authority to commit the public agency's resources.
- 511 IAC 7-10-2 with regard to the school's alleged failure to implement general education interventions for a student whose classroom performance was adversely affecting educational outcomes.
- 511 IAC 7-10-1 with regard to the school's alleged failure to identify a student who resides within the jurisdiction of the school corporation as being a student in need of special education and related services.
- 511 IAC 7-15-3 with regard to the school's alleged attempt to utilize mediation to resolve a dispute about the need for an educational evaluation.
- 511 IAC 7-10-3(i) with regard to the school's alleged failure to utilize more than one test or procedure to determine the student's eligibility for special education.
- 511 IAC 7-10-3(g) with regard to the school's alleged failure to conduct a comprehensive evaluation before determining the student's eligibility for special education.

Due to the unanticipated family leave of the originally assigned complaint investigator, the deadline for the complaint report was extended to August 18, 2000, to allow the replacement investigator sufficient time to complete the investigation and the report.

## **FINDINGS OF FACT:**

1. The student is eleven years old and will be attending the fifth grade this fall. Based on an educational evaluation, the student has been determined ineligible for special education.
2. The director states that during a diagnostic interview held on March 14, 2000, the father and school personnel agreed to convene a CCC meeting on May 9, 2000, to discuss the results of the educational evaluation. However, the school did not supply any records to document that this occurred. The director supplied a copy of a Notice of Conference form dated May 2, 2000, and reports this notice was placed in the outgoing mail basket at the school by the school psychologist on May 2, 2000. The parents state they did not have prior knowledge that a CCC meeting had been scheduled for May 9, 2000, and submitted an envelope with the school's return address, which was post marked May 8, 2000. The parents state they did not receive the notice of the 8 a.m., May 9<sup>th</sup> CCC meeting until several hours after the meeting was to have been held. On May 9, 2000, another CCC meeting was arranged with the parents for May 24, 2000, which was attended by both parents.
3. The school received a letter from the parents on March 6, 2000, requesting that an educational evaluation be conducted for the student. The student's evaluation was conducted on March 24, 2000, and a CCC meeting was convened on May 24, 2000. A copy of the 1999-2000 school calendar was not provided to the Division; however, the Director acknowledges the educational evaluation and the CCC meeting were not completed within forty instructional days from the date written parental consent was received by the school.
4. IEP forms document that the district supervisor of the special education planning district attended the CCC meeting convened on May 24, 2000. The district supervisor served as the CCC meeting chairperson. According to the director, and based on a written statement from the school's superintendent, this individual is a representative of the public agency and has the authority to commit public agency resources.
5. The school provided an average of the student's grades for the third and fourth grade, and there was only a slight decline in the student's academic performance from the third grade to the fourth grade. For both years, the student received average to slightly above average grades in all subject areas. According to the director's response, school personnel did not view the student as one whose classroom performance was adversely affecting educational outcomes, and therefore, did not feel the student was in need of general education intervention services. On April 20, 2000, the school did implement a written plan to assist the student in making sure all classroom assignments were completed timely.
6. According to the director's response, school personnel were not of the opinion that the student was in need of special education or related services as the student was earning average to above average grades during the third and fourth grades. The director acknowledges the student experienced a slight decline in academic performance during the fourth grade, but not enough to alert teaching staff to recommend the student to be evaluated for special education. The student was determined ineligible for special education at a CCC meeting convened on May 31, 2000, which was attended by both of the student's parents.
7. The parents state at the diagnostic interview convened on March 14, 2000, school personnel indicated the school could request mediation should there be a disagreement in whether or not the student should be evaluated. According to the director's response, based on academic performance, the general education teacher and the school principal expressed concern to the parent that the student did not need to be evaluated for special education. School personnel then explained the due process options parents had if they had a dispute with the school concerning the

student's educational program. The director states in her written response, the purpose of explaining due process procedures was not an attempt to dissuade the parents from pursuing the educational evaluation, but merely an obligation on the part of the staff to answer the parents' questions.

8. The Special Education Evaluation - Multi-Disciplinary Team Report was provided to the Division to document what testing and observations occurred to determine the student's eligibility for special education. According to this Report, the following evaluations, interview, observations, and rating scales were used to evaluate the student:

1. WISC-III - to determine intellectual capacity;
2. WAIT (Wechsler) - to determine academic factors;
3. WJTCA (Woodcock-Johnson) - to determine processing factors;
4. Behavior observations;
5. Interview with student;
6. Conners' Parent Rating Scales - Revised; and
7. Conners' Teacher Rating Scales - Revised.

The tests were administered on March 24, 2000, and the behavior observations were conducted on April 7, 2000. Based on the results of the evaluation process, the student was determined ineligible for special education at a CCC meeting convened on May 31, 2000.

#### **CONCLUSIONS:**

1. Finding of Fact #2 reflects the school failed to provide adequate notice early enough to give one or both parents the opportunity to attend a CCC meeting. Therefore, a violation of 511 IAC 7-12-1(c) is found.
2. Finding of Fact #2 indicates the school failed to schedule a CCC meeting at a mutually agreed upon date and time. Therefore, a violation of 511 IAC 7-12-1(b) is found.
3. Finding of Fact #3 reflects the school failed to conduct an educational evaluation and convene a CCC meeting within forty instructional days from the date written parental consent was received by the school. Therefore, a violation of 511 IAC 7-10-3 is found.
4. Finding of Fact #4 indicates the school had in attendance at the CCC meeting convened on May 24, 2000, a representative of the public agency with the authority to commit public agency resources. Therefore, no violation of 511 IAC 7-12-1(e) is found.
5. Finding of Fact #5 reflects the school did not implement general education interventions as school personnel did not view the student's classroom performance as having an adverse affect on educational outcomes. Therefore, no violation of 511 IAC 7-10-2 is found.
6. Finding of Fact #6 indicates school personnel were not of the opinion that the student was in need of special education or related services as the student was earning average to above average grades. Therefore, no violation of 511 IAC 7-10-1 is found.
7. Finding of Fact #7 reflects school personnel attempted to explain due process procedures to the parents as a means of advising the parents of procedural safeguards. Therefore, no violation of 511 IAC 7-15-3 is found.
8. Finding of Fact #8 indicates the school used more than one test or procedure to determine the

student's eligibility for special education. Therefore, no violation of 511 IAC 7-10-3(i) is found.

9. Finding of Fact #8 reflects the school conducted a comprehensive evaluation before determining the student's eligibility for special education. Therefore, no violation of 511 IAC 7-10-3(g) is found.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Griffith Public Schools and the Northwest Indiana Special Education Cooperative shall:

1. In-service all appropriate staff within the school corporation as to the requirements specified in 511 IAC 7-25-4, 511 IAC 7-27-1, and 511 IAC 7-27-2. Submit documentation to the Division that the in-service training has been completed no later than September 29, 2000. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.

DATE REPORT COMPLETED: August 15, 2000